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Ex parte communications between city elected officials and developers

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 To: Rob Wilcox <rob.wilcox@lacity.org>

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Hi Rob,

There's a proposal to ban ex parte communications between developers and city elected officials and city planning commissioners. I'm trying to understand how the city currently handles ex parte communications.

Here is what the Neighborhood Integrity coalition proposed in a letter to the mayor:

— Ex parte communications between developers and city elected officials or members of the City Planning Commission — also known as backroom meetings — must be eliminated. Just as we have seen with the California Coastal Commission, ex parte communications give developers an all-access pass to our government officials while regular people with a much bigger stake in their communities wait in line at long meetings for one minute of public comment. We are better than that.

Here's what the city attorney's office recommended in 2007:

http://clkrep.lacity.org/onlinedocs/2007/07-3294_rpt_atty_12-18-07.pdf

Here's an Ethics Commission memo on whether to ban ex parte communications:

http://ethics.lacity.org/PDF/policy/GEO/Memo_Impartial_&_Fairness_Part_C_Continued_11.2.2010.pdf

And here's the relevant section:

a. Officials Subject to the Ban

There are a variety of ways that adjudicative City decisions are made. Commissions and boards, such as the Ethics Commission or the Board of Building and Safety Commissioners, can act as adjudicative decision makers. Individuals such as zoning administrators may also adjudicate City decisions. And the City Council (or certain City Council members acting as the Board of Referred Powers) may also sit as an adjudicative body. The City Attorney has advised against applying the ban to elected officials. See Attachment B, pp. 4-5. The City Attorney notes that, in addition to the constitutional right of due process, citizens also have the constitutional right to petition their elected officials. See, e.g., U.S. Const. amend. I; Cal. Const. art. I, § 3(a). Recognizing these competing and equally compelling interests, we do not recommend including elected City officials in the regulations regarding ex parte communications. We understand that the City Attorney's office will continue to caution elected officials against engaging in adjudicative ex parte communications. In addition, elected officials may voluntarily comply with the regulations when they believe it is appropriate to do so.

Does the city attorney advise city council members to avoid ex parte communications on quasi-judicial matters? I was under the impression that developers/applicants and their hired representatives frequently meet with council members to discuss land-use decisions, such as CUP and zone changes?

Thanks,

Kerry Cavanaugh

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